


Doc Code: AP.PRE.REQ

PTO/SB/33 (07-05)
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PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional) 27592-00107-US2	
	Application Number 10/725,579	Filed December 3, 2003	
	First Named Inventor Poh C. Chua		
	Art Unit 2617	Examiner Jean A. Gelin	
<p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal.</p> <p>The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.</p> <p>I am the</p> <p><input type="checkbox"/> applicant /inventor.</p> <p><input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)</p> <p><input checked="" type="checkbox"/> attorney or agent of record. Registration number 44,457</p> <p><input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34. _____</p> <p> Signature Jeffrey W. Gluck Typed or printed name (202) 331-7111 Telephone number 7/11/2008 Date</p> <p>NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.</p> <p><input type="checkbox"/> *Total of 1 forms are submitted.</p>			

Remarks in Support of Pre-Appeal Brief Request for Review

At pages 2-4, the Office Action rejects Claims 44, 45, 48-52, 55-58, 63-70, and 74 under 35 U.S.C. § 103(a) as being unpatentable over Phillips (U.S. Patent Application Publication No. 2003/0055560) in view of Yamamoto (U.S. Patent Application Publication No. 2002/0142803). At page 5, the Office Action rejects Claims 71-73 and 75 under 35 U.S.C. § 103(a) as being unpatentable over Phillips in view of Yamamoto, and further in view of Chastain et al. (U.S. Patent No. 6,502,022). These rejections are respectfully traversed for at least the following reasons.

As an initial note, Claim 64 is listed in the list of rejected claims, but it is never addressed in the body of the rejection. Therefore, there is no *prima facie* case for this rejection, and Claim 64 is presumed to be allowable.

At page 2, the Office Action cites Phillips as disclosing “monitoring a relationship between a wireless device and a vehicle by evaluating location information that specifies a location of the wireless device, that specifies a location of the vehicle, wherein the geographical location information is generated for each . . . by at least one location system, to determine the relationship by comparing the location of the wireless device to the location of the vehicle.” The Office Action cites Phillips at paragraphs [0008]-[0011] in support of this assertion. It is noted that Phillips is directed to a system for vehicle location that makes use of a wireless device to receive location information for the vehicle and that the wireless device determines its own location and compares the two to obtain information to display to the user, to assist the user in locating the vehicle (see, e.g., paragraphs [0008]-[0011]). However, as noted at page 3 of the Office Action, Phillips does not disclose enabling hands-free operation of the wireless device if the

geographical relationship between the device and the vehicle satisfies a condition, as in Claim 44 (Claims 51, 56, and 64 recite, further, that the condition corresponds to the device being within the vehicle).

The Office Action, at page 3, cites Yamamoto to address this deficiencies of Phillips. In particular, the Office Action asserts that “Yamamoto teaches when the mobile telephone is in the vehicle[,] information can be transmitted in hands-free mode without making any operation [0048].” It is respectfully submitted that Yamamoto fails to fully address the deficiencies of Phillips.

In particular, Yamamoto does not disclose or suggest enabling a hands-free mode of operation when a condition is satisfied with respect to the geographical relationship between the wireless device and the vehicle, as claimed. Yamamoto, as presented, e.g., in Fig. 4, relies on a query-response type of operation to determine when a wireless device is in proximity to a base station located in the vehicle. *This does not correspond to a condition based on geographical locations of the device and the vehicle.* Therefore, even if, *arguendo*, Yamamoto’s system is able to determine when a wireless device is able to establish a (Bluetooth) connection to a vehicle system, this is not based on a condition based on geographical information – *it is based on a successful “handshake” between the wireless device and the base station in the vehicle.* Consequently, the mere addition of Yamamoto to Phillips fails to result in the claimed invention.

Furthermore, it is not apparent that Yamamoto and Phillips could even be combined to obtain what has been claimed. Yamamoto is directed to a system for providing hands-free operation of a wireless communication device when used in a vehicle, where the system in the vehicle works to allow the wireless device to detect the

presence of the system (see discussion above). Phillips is directed to a vehicle location system using a hand-held device. This leads to several issues. These are two disparate systems—communications and vehicle location—which are not apparently combinable, so a skilled artisan would not have looked to Phillips to remedy the shortcomings of Yamamoto. It is noted that the “Response to Arguments” at pages 5-7 of the Office Action does not address this.

It is, therefore, respectfully submitted that the present claims are allowable over the cited references.

Additionally, Claims 65-70 include recitations that address the disabling of non-hands-free operation if the (geographical) positional relationship between the wireless device and the vehicle indicates that the wireless device is located within the vehicle. The Office Action, at page 4, maintains that Yamamoto teaches this limitation, noting paragraphs [0019] and [0048]. However, it is respectfully submitted that merely combining this feature of Yamamoto into the system of Phillips would likely at least partially destroy the functionality of the Phillips system. In particular, known geolocation systems are not currently capable of providing exact geographical locations; rather, they provide locations to within some tolerance. In the case where the geographical location information indicates that the wireless device is located within the vehicle, it may, in fact, not actually be within the vehicle. Therefore, the non-hands-free functionality of the device may be disabled prior to the user being able to locate the vehicle (that is, the device may be disabled based on the relative locations of the device and the vehicle, even though the user has not yet located the vehicle, which is the purpose of Phillips). Hence, the mere combination likely does not work, and further features, not

obvious based on Phillips, Yamamoto, or their combination, are required (if such features are possible) to avoid this malfunction. Hence, it is respectfully submitted that Claims 65-70 are further allowable for this reason.

It is also noted that the discussion at pages 6-7 of the Office Action fails to address this.

Finally, Claim 48 recites “measuring a signal strength transmitted by the wireless device by a transceiver associated with the vehicle in addition to evaluating the geographical location information.” The Office Action, at page 3, asserts that this is taught by Yamamoto, citing paragraphs [0048], [0058], and [0059]. However, the cited portions of Yamamoto merely deal with the detection of the proximity of the wireless device to the vehicle’s device, which, as discussed above, is performed by a “handshaking” operation, not by means of a signal strength measurement. The Office Action, at page 7, further asserts that signal strength measurement is inherently performed; however, Applicants maintain that this is not so and that the handshake procedure of Yamamoto (see above) renders signal strength measurement (and, indeed, any kind of proximity detection) unnecessary and redundant. Furthermore, Applicants find no discussion of such signal strength measurements anywhere in Yamamoto. For this addition reason, it is respectfully submitted that Claim 48 is allowable over the cited references.

Claims 71-73 and 75 recite that the disabling of a wireless mobile device involves “generating an interference signal to disrupt non-hands-free operation,” and it is respectfully submitted that none of the cited references teaches or suggests this feature. In particular, the Office Action asserts that “Chastain teaches assigning a risk value and

compared [*sic*] the assigned risk value to a predetermined threshold and setting a risk threshold to switch to hand-free mode, col. 1, line 51 to col. 1, line 67 and col. 5, lines 6-9.” It is not understood how this relates to any of the claim elements (and particularly those to which the Office Action asserts that it pertains), and Applicants respectfully submit that this certainly does not teach or suggest generating an interference signal, as claimed. Therefore, it is respectfully submitted that Claims 71-73 and 75 are also allowable for this further reason.

Applicants may not have presented all possible arguments or have refuted the characterizations of either the claims or the prior art as may be found in the Office Action. However, the lack of such arguments or refutations is not intended to act as a waiver of such arguments or as concurrence with such characterizations.

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